

ATTACHMENT A

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

FIBER TECHNOLOGIES NETWORKS, L.L.C.,

Complainant,

v.

DUKE ENERGY-INDIANA, INC., DUKE
ENERGY CAROLINAS, LLC., and DUKE
ENERGY PROGRESS, INC.

Respondents.

Proceeding No. 14-227

File No. EB-14-MD-015

DECLARATION OF T. SCOTT THOMPSON

I, T. SCOTT THOMPSON, declare as follows:

1. I am a partner at Davis Wright Tremaine, LLP, and counsel for Complainant Fiber Technologies Networks, L.L.C. in this case. I submit this declaration in support of Fibertech's Reply to the Response to Pole Attachment Complaint in the above-captioned case.

2. Attached hereto as Exhibit 1 is a true and correct copy of an August 22, 1978 letter from the Indiana Utility Regulatory Commission ("IURC") to the Federal Communications Commission ("FCC") purporting to certify that it regulates pole attachments. This letter was filed with the FCC Office of the Secretary.

3. Attached hereto as Exhibit 2 is a true and correct copy of an October 27, 1981 letter from the IURC to the FCC stating that the IURC did not challenge the decision of the Indiana Court of Appeal in *Illinois-Indiana Cable Television Ass'n, Inc. v. Public Svc. Comm'n*,

427 N.E.2d 1100 (Ind. Ct. App. 1981), that the IURC does not have jurisdiction over the rates, terms, and conditions of pole attachments by cable operators, and that the IURC's attempted certification was withdrawn. This letter was filed with the FCC Office of the Secretary.

4. Attached hereto as Exhibit 3 is a legible copy of relevant page from Exhibit 6 of the Natasha Ernst Declaration submitted in support of Fibertech's Complaint in this matter. The version of the page submitted with Ms. Ernst's Declaration initially lost resolution during the copying and scanning process. The page shows a pole loading analysis that was attached to the Engineering drawings approved by Dayton Power & Light.

5. I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge.

By: 
T. Scott Thompson

Dated: January 6, 2015

EXHIBIT 1

STATE OF INDIANA

PUBLIC SERVICE COMMISSION
901 STATE OFFICE BUILDING



RECEIVED
Aug 29 2 29 PM '78
INDIANAPOLIS 46204
CHIEF, COMMON
CARRIER BUREAU
August 22, 1978

DOCKET FILE COPY ORIGINAL FILED/ACCEPTED
APR 26 2010

Federal Communications Commission
Common Carrier Bureau
1919 M Street, N.W.
Washington, D.C. 20554

Federal Communications Commission
Office of the Secretary

Attn: Mrs. Shirley, Cable Bureau

Dear Mrs. Shirley:

On July 6, 1978 I wrote to you enclosing the original of a Certification of Regulation of cable television pole attachments by the Public Service Commission of Indiana as provided in P.L. No. 95-234, 47 U.S.C., Sec. 224(c)(2).

I had been informed that you were the person to whom this Certification should be sent. However, I also sent a copy of my letter and the Certification to the Secretary of the FCC and requested that either you or the Secretary acknowledge receipt of the Certification.

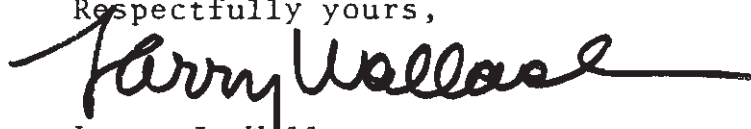
To date I have not received an acknowledgement or receipt of the Certification by this Commission from either you or the Secretary to the FCC. So that my file will be complete on this matter and confusion may be avoided in the future, I would greatly appreciate an acknowledgement of my letter of July 6, 1978 and enclosed Certification of Regulation of cable television pole attachments by the Public Service Commission of Indiana.

I am somewhat disturbed by the "first report and order" adopted by the FCC on August 8, 1978 and released August 11, 1978 in CC Docket 78-144 in that the first report and order, by footnote 3, indicates that Indiana is not considered by the FCC to have asserted jurisdiction as of the adoption of the order. I do not understand this since we tendered our Certification of Jurisdiction to you early in July.

I would like to have an explanation as to why the first report and order omits the state of Indiana from the states which, in the opinion of the FCC, appear to have asserted jurisdiction.

A prompt reply to this letter would be greatly appreciated.

Respectfully yours,



Larry J. Wallace
Chairman

gk

cc: William J. Tricarico, Secretary, Federal Communications Commission
Walter O. Seabury, Chief Engineer,
Public Service Commission of Indiana

EXHIBIT 2

STATE - INDIANA

DOCKET FILE COPY ORIGINAL



INDIANAPOLIS 46204

PUBLIC SERVICE COMMISSION

901 STATE OFFICE BUILDING

FILED/ACCEPTED

October 27, 1981

RECEIVED

APR 26 2010

Mr. William Johnson
Chief, Cable Television Bureau
FEDERAL COMMUNICATIONS COMMISSION
Common Carrier Bureau
1919 M Street, N.W.
Washington, D.C. 20554

Federal Communications Commission
Office of the Secretary

NOV 1 1981

POLE ATTACHMENT
BRANCH

NOV 2 5 01 PM '81
TAMM DIVISION

Dear Mr. Johnson:

On July 6, 1978 I sent your office a Certification of Regulation of Cable Television Pole Attachments by the Public Service Commission of Indiana as provided by P.L. No. 95-234, 47 U.S.C., Sec. 224(c)(2).

On October 27, 1981 the Court of Appeals of the State of Indiana held that this Commission does not have jurisdiction over the rates charged by electric and telephone utilities to cable television companies for pole attachments. We do not challenge that ruling. The Certification of Regulation sent to the FCC on July 6th is, therefore, hereby withdrawn.

Respectfully yours,

A handwritten signature in cursive script that reads "Larry J. Wallace".

Larry J. Wallace
Chairman

gk

cc: Clerk of the Supreme and Appellate Court of Indiana
Commissioner William B. Powers
Commissioner Peggy Harris
Max W. Tucker, Secretary to the Public Service
Commission of Indiana
All Counsel of Record in Public Service Commission
Cause No. 35590 and Court of Appeals Cause No. 2-979 A 285
William J. Tricarico, Secretary,
Federal Communications Commission

EXHIBIT 3

